IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 15737 of 2004

Between:

M.Suguna, W/o.M.Srinivas Reddy,
R/o.Thungathurthy Village, Kothepally Mandal, Nalgonda Dist.

..... PETITIONER

AND

Municipal Commissioner, Miryalaguda Municipality, Miryalaguda, Nalgonda Dist.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus declaring that the proceedings No.G1/708/ 2004 dated 17-3-2004 issued by the respondent in rejecting application for construction of compound wall is highly arbitrary, bad and illegal and pass.

Counsel for the Petitioner: MR.P.PRABHAKAR REDDY

Counsel for the Respondent: MR.R.TIMMA REDDY

The Court at the admission stage made the following :

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.15737 OF 2004

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ORDER:

The petitioner is a resident of Miryalaguda. She claims to be absolute owner of plot No.544 admeasuring 5,400 square yards. She made an application on 16.12.2003 to the respondent praying for permission to construct compound wall to protect land from encroachments. The same was rejected by the respondent by notice dated 17.03.2004 informing that there is already constructed compound wall and that the petitioner's request for construction of compound wall cannot be granted. Assailing the same, the petitioner filed the present writ petition. Learned counsel for petitioner submits that the respondent rejected the application for permission without giving notice and without application of mind and therefore the same is liable to be set aside.

As per Section 209 of A.P.Municipalities Act, 1965 (the Act, for brevity), if any person intends to construct or reconstruct a building, an application has to be made to the Commissioner together with plan, and if it is found to be in accordance with building bye-laws, the Commissioner may pass appropriate orders under Section 212 of the Act. As per section 2(3) of the Act, the term 'building' is defined to mean any structure constructed of any materials or includes a house, outhouse, shop, hut, shed but a boundary wall not exceeding two meters in height, is not considered as a building. Therefore, the compound wall, which the petitioner desires to construct does not require any permission. Therefore, I do not see any infirmity in the order passed by respondent.

The writ petition, with the above observations, is dismissed.

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(V.V.S.RAO,J)

02.09.2004.

pln

To

1. The Municipal Commissioner, Miryalaguda Municipality, Miryalaguda, Nalgonda District.

2. 2 CD copies.

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